



In the matter of United States Patent Application No. 09/779,237 in the name of South African Sugar Association.

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**AFFIDAVIT**

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I, the undersigned,

FREDERIK COENRAAD BOTHA

do hereby make oath and say that:

1. I am the Director of the South African Sugar Association, of Mount Edgecombe, Kwazulu Natal, South Africa.
2. I am authorised to make this affidavit on behalf of the South African Sugar Association ("the SA Sugar Association"), the applicant in respect of United States Patent Application No. 09/779,237.
3. Unless the context indicates otherwise, the facts deposed to herein are within my personal knowledge, and to the best of my knowledge and belief are true and correct.
4. United States Patent Application No. 09/779,237 ("the application") was filed on 8 February 2001. The application claims priority from South African Patent No. 2000/0574 filed on 8 February 2000.
5. Plant expression vectors pUSPc510 and pASPc510 have been deposited at the South African Sugar Association, Mount Edgecombe, Kwazulu Natal, South Africa (Private Bag X02, Mount Edgecombe, 4300, South Africa) on

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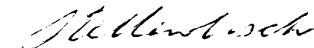
~~FEBRUARY 1, 2000~~ The vectors have been assigned deposit numbers SASA1 (pUSPc510) and SASA2 (pASPc510), respectively ("the vector deposits").

6. I submit that during the pendency of the application, access to the vector deposits will be afforded to a person nominated by the commissioner to be entitled thereto.
7. I further submit that all restrictions imposed by the SA Sugar Association on the availability to the public of the vector deposits, will be irrevocably removed upon the granting of a patent on the application.
8. I further submit that the vector deposits will be maintained at the South African Sugar Association for a period of at least thirty years from the date of the deposit or for the enforceable life of the patent or for a period of five years after the date of the most recent request for the furnishing of a sample of the vector deposits, whichever period is longer.
9. I further submit that the vector deposits have been tested for viability by employees of the South African Sugar Association on **16 June 2003**, and the test results showed that the deposited material is capable of production.
10. I further submit that the vector deposits will be replaced if necessary, in the event of inviability or contamination of the vector deposits or loss of capability of the vector deposits to function in the manner described in the specification of the application or the patent granted on the application.

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FREDERIK COENRAAD BOTHA



THUS SIGNED AND SWORN TO at 7<sup>th</sup> on this the 7<sup>th</sup> day of 2003, the deponent having declared that:



1. He knows and understands the contents of this affidavit.
2. He has no objection to taking the prescribed oath.
3. He considers the prescribed oath to be binding on his conscience.

I have caused the deponent to utter the following words:

*"I swear that the contents of this affidavit are true, so help me God."*

BEFORE ME

*M. J. O'SHEA - S*  
*M. J. O'SHEA - S*

Commissioner of Oaths

*Stellenbosch SAPD*  
*du Toit street*

*[Signature]*